

BEST AVAILABLE COPY SEP 18 2006

Serial No. 10/647,949

Docket No. NG(MS)6692

REMARKS

Claims 1-10, 12-16, 18-22 and 29-34 are currently pending in the subject application, and are presently under consideration. After the previous Office Action, claims 1-3, 6, 7, 10, 13-16, 20, 22, 24, 26 and 27 were rejected. Claims 4, 5, 8, 9, 11, 12, 17-19, 21, 23, 25, 28 and 29 were indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The application was then amended to incorporate matter deemed allowable into all of the independent claims. Favorable reconsideration of the application is requested in view of the amendments and comments herein.

I. Substance of Interview

The interview focused on the best way to handle the issues presented by a June 1, 2006 letter from Tim van Gelder to the Examiner. During the interview, the difficulty of pinning down specific teachings from the Mr. van Gelder's assertions were discussed, and the possibility of filing a petition to remove the letter from the file was discussed as a method to advance prosecution of the application.

II. Tim van Gelder letter

The Examiner has requested that applicants respond to all points within a letter presented by Tim van Gelder. It is respectfully submitted that requiring a response to a letter submitted in contravention of 35 U.S.C. §122(c) is inappropriate under established procedures in the Manual of Patent Examining and Procedure, and it is further submitted that practically speaking, the information provided in the letter is insufficient to formulate an appropriate response on matters of patentability.

35 U.S.C. §122(c) requires that appropriate procedures be established to "ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication of the application without the express written consent of the applicant." 37 CFR §1.99 is intended to provide a balance between the requirements of 35 U.S.C. §122 and the requirement that the office issue a patent only if it appears that the applicant is entitled to a

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patent under the law. (See April 22, 2003 Official Gazette Notice on Third Party Attempts to Oppose or Protest, available at <http://www.uspto.gov/go/og/2003/week16/patoppo.htm>).

Accordingly, MPEP §1134 instructs Office personnel, including the Patent Examining Corps, “to (1) not reply to any third-party inquiry or other submission in a published pending application; (2) not act upon any third-party inquiry or other submission in a published application, except for written submissions that are provided for in 37 CFR §1.99 and written submissions in applications in which the applicant has provided an express written consent to protest or pre-issuance opposition; and (3) decline to accept oral or telephone comments or submissions about published applications from third parties.”

It is respectfully submitted that Mr. van Gelder's letter does not comply with 37 CFR §1.99 for a number of reasons. To begin with, Mr. van Gelder's letter cites purported prior art that is other than patents and publications, which is not permissible under 37 CFR §1.99. This is more than a mere technical objection by applicants, as the vague references to computer programs by Mr. van Gelder provide no reasonable basis for determining the relevance of these programs to the pending claims. Additionally, 37 CFR §1.99(c) requires that the letter be served upon applicants or their representatives in accordance with 37 CFR §1.248. To the best of available information, this did not occur, with the Office Action of July 21, 2006 providing first notice of the letter to applicants. Most importantly, 37 CFR §1.99(e) requires that any publications or prior art be provided within two months of publication of the application. The above reference patent application was published on March 3, 2005, just under fifteen months before Mr. van Gelder sent his letter. To properly present his comments, Mr. van Gelder would now require applicant's written consent, which to the best of available information, has been neither sought nor granted. It is thus respectfully submitted that the Examiner's request for comments comprises an inappropriate use of an invalid third party protest in violation of 35 U.S.C. §122(c), and it is respectfully requested that the prosecution of the application proceed without further reference to Mr. van Gelder's comments.

Mr. van Gelder did reference two published papers in his comments. Although even the publications he mentioned should not have been entered into the file under 37 CFR §1.99(e), in

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the interest of facilitating a thorough examination of the application, the papers have been submitted as a supplementary IDS. A first reference, Bayesian Reasoning in an Abductive Mechanism for Argument Generation and Analysis, provides a general teaching of incorporating Bayesian analysis into knowledge representation. A second reference, A Model for Reasoning About Persistence and Causation, discusses incorporation of temporal factors into a mathematical causal reasoning model. It is respectfully submitted that these papers do not anticipate or render obvious the currently pending claims.

For the reasons described above, 1-10, 12-16, 18-22 and 29-34 should be patentable over the cited art. Accordingly, withdrawal of this rejection is respectfully requested.

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CONCLUSION

In view of the foregoing remarks, Applicant respectfully submits that the present application is in condition for allowance. Applicant respectfully requests reconsideration of this application and that the application be passed to issue.

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,

Date

9-18-06

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